

ARTICLE VII. SUBDIVISION REVIEW

Section 7.1 Purpose

A. **Purpose.** Subdivision regulations, adopted and incorporated under these unified regulations (Articles VII and VIII) in accordance with the Act [§4418] and Section 1.1 are intended to:

Subdivision: *The division of any parcel of land into two or more parcels for the purpose of offer, transfer, sale, conveyance, long-term lease or land development. The term also includes the re-subdivision of a previously subdivided parcel, amended subdivisions, the division of land held in common among several owners, and planned unit development (see 11.2).*

1. Conform to and implement the Underhill Town Plan as most recently adopted, and to further state planning goals under the Act [§4302].
 2. Protect and provide for the public health, safety, and general welfare of the Town of Underhill.
 3. Guide the future growth and orderly development of the town in conformance with the type, density and pattern of development specified in the Underhill Town Plan, zoning regulations, and other bylaws and ordinances in effect.
 4. Prevent environmental degradation, limit development within mapped floodplains and other hazard areas, and avoid undue adverse impacts to the town's natural, cultural and scenic resources as identified in the Underhill Town Plan and related inventories, plans and studies.
 5. Ensure the efficient extension of services, facilities, roads, utilities and other infrastructure as land is developed, and that existing or planned facilities will have sufficient capacity to serve the proposed subdivision, in conformance with the town plan, adopted capital and transportation improvement programs and these regulations.
- B. Subdivision review and approval by the Development Review Board (DRB) ensures that lots created after the effective date of these regulations [March 2, 2011] meet applicable zoning district requirements and are suited for their intended use; and that the subdivision of land occurs in a manner that serves the interests of the community while respecting the rights of property owners, and does not result in undue adverse impacts to neighboring properties and uses, to significant natural, cultural and scenic resources, or to the capacity of existing and planned community facilities and services.

Section 7.2 Applicability

- A. These subdivision regulations supersede all previous subdivision regulations adopted by the Town of Underhill as specified under Section 1.1.
- B. These regulations shall apply to all subdivisions of land, as defined under 11.2, that are located within the Town of Underhill. No land shall be subdivided within the town until the applicant has obtained final subdivision approval from the DRB and the approved subdivision plat is recorded in the Underhill land records.

C. Subdivision approval by the DRB is required prior to:

1. The transfer, sale or long-term lease of title to property (as defined under 32 V.S.A. §9601) of any portion of an existing lot.
2. Predevelopment site work, including site clearing, grading, and the construction or installation of infrastructure or other site improvements that are intended to serve a proposed lot (excluding forestry, agricultural, and land surveying activities).
3. Recording a subdivision plat or the deed for subdivided lot in the land records of the town.
4. Applying for a zoning permit to develop a subdivided lot.

D. **Exemptions.** The following are exempt from subdivision review under these regulations:

1. A parcel or portion of a parcel of land leased for agriculture or forestry that does not require the sale or transfer of land, or the establishment of permanent roads, infrastructure or structures.
2. Rights-of-way or easements that do not result in the subdivision of land.
3. A boundary (lot line) adjustment between two adjoining parcels legally in existence as of the effective date of these regulations, if the boundary adjustment:
 - a. does not result in the creation of new or nonconforming lots under these regulations,
 - b. does not alter any prior findings or conditions of subdivision approval (see Section 7.8), and
 - c. the adjustment is surveyed by a licensed surveyor, issued a zoning permit in accordance with Section 10.3, and recorded in the town land records under Section 7.7.

Note: A boundary adjustment approved administratively under this section does not mean that the adjusted lots are approved for additional development.

E. **Classification of Subdivisions.** For purposes of these regulations, subdivisions of land will be classified by the Development Review Board as either "minor" or "major" subdivisions as follows:

1. Minor subdivisions include:
 - a. The subdivision of land or the re-subdivision of a previously subdivided lot which results in the creation of no more than three lots including previously subdivided

lots, regardless of any change in ownership; and which does not require the installation or extension of a road or municipal utilities.

- b. An amendment to an approved subdivision or subdivision plat that does not substantially or materially alter findings and prior conditions of subdivision approval.

2. Major subdivisions include:

- a. The subdivision of land or re-subdivision of a previously subdivided lot which results in a total of four or more lots including previously subdivided lots, or requires the installation or extension of a road right-of-way or municipal utilities.
- b. An amendment to a previously approved major subdivision which alters the number of lots, the density of development, the location of building envelopes, rights-of-way or easements, or otherwise substantially or materially alters the findings, terms or conditions of prior subdivision approval.
- c. Phased subdivisions developed under master plans, and all planned unit developments under Article IX.

F. **Coordination of Review.** No zoning permit is required for the subdivision of land. Subdivision review and approval by the DRB is required prior to site plan or conditional use review by the DRB or the issuance of zoning permits for the subsequent development of subdivided lots. The conditions of subdivision approval shall apply under subsequent review processes. Site plan or conditional use review may be conducted concurrently by the DRB with final subdivision review. Planned unit developments (PUDs) shall be reviewed as major subdivisions concurrently under Articles VII, VIII and IX.

Section 7.3 Sketch Plan Review

A. **Purpose.** Sketch plan review is an informal, pre-application review process intended to acquaint the Development Review Board (DRB) with a proposed subdivision during the conceptual stage of the design process, before the applicant incurs significant expense in preparing a formal application. This informal review and discussion at a regular meeting of the DRB helps identify the type of subdivision and subdivision layout that will best meet the needs of the subdivider and the requirements of these regulations. At minimum, an applicant is required to submit a sketch plan prior to the submission of a formal application for the DRB and the applicant to:

1. Consider whether the subdivision, as initially proposed, would be classified as a major or minor subdivision, or planned unit development to be reviewed as a major subdivision.
2. Discuss the subdivision review process and any proposed waivers requested by the applicant.

3. Discuss the proposed subdivision's general conformance with the town plan, these regulations, and any other municipal regulations or capital improvement programs currently in effect.

B. **Sketch Plan Submissions.** At least ten business days prior to a regular meeting of the DRB, an applicant shall submit:

1. A sketch of the proposed subdivision,
2. A brief project description that generally addresses applicable sections under Article VIII (Subdivision Review Standards),
3. A description of any proposed modifications or waivers under applicable standards, and
4. A list of abutting property owners, and administrative fees.

C. **Sketch Plan Meetings.** The Zoning Administrator, in consultation with the Chair of the DRB, shall schedule time at the next available regular meeting of the Board to consider the sketch plan, and will notify the applicant and adjoining property owners in writing of the date and time of the meeting.

1. The applicant, or his or her duly authorized representative, shall attend the sketch plan meeting to present and discuss the proposed plan with the DRB.
2. The DRB may request additional meetings with the applicant as needed to fully review the sketch plan, which may include a site visit with the applicant to examine the land proposed for subdivision.

D. **Sketch Plan Letter.** Within 15 days of the date of the final sketch plan meeting, the DRB shall issue a sketch plan letter that, based on available information:

1. Indicates whether the subdivision as proposed would be reviewed as a minor or major subdivision, or planned unit development, and outlines the associated review process.
2. Indicates whether the proposed subdivision generally conforms to these regulations, or will require modifications to conform to the regulations.
3. Identifies specific areas of concern to be addressed in subdivision application, including potential impacts to adjoining property owners, significant natural or scenic resources, municipal roads and infrastructure, and community facilities and services.
4. Recommends additional information, studies or supporting documentation to be submitted with the application for subdivision review.

E. **Effect of Sketch Plan Review.** Sketch plan review is intended to provide guidance to the applicant on a proposed subdivision, based on preliminary information submitted by the applicant. As such, the sketch plan review process and letter do not bind the municipality or the applicant, and are not subject to appeal under Section 10.5. Sketch plan letter recommendations remain in effect for one year from the date of issuance. If an application is not filed within the year, another sketch plan review shall be required.

Section 7.4 Application Requirements

A. Pre-Application Meeting

1. All applicants or their authorized agents are encouraged to meet with the Zoning Administrator prior to filing an application for subdivision review. The purpose of this meeting is to provide the applicant with the necessary forms and information needed to file a complete application, and to discuss subdivision review procedures and requirements.
2. At this meeting, the Zoning Administrator will:
 - a. Review and discuss the proposed subdivision with the applicant to classify the subdivision under these regulations, and to help identify options for subdivision design that best meet the needs of the applicant and the requirements of these regulations.
 - b. Provide application forms and checklists, and identify for the applicant what materials will be needed to file a complete application for referral to the DRB, before site visits and hearings can be scheduled.
 - c. Explain the timing requirements for submissions, hearings, decisions, and plat recording.
 - d. Identify any other applicable town ordinances and permit requirements that pertain to the subdivision, and recommend that the applicant address these requirements in subdivision design.
 - e. Direct the applicant to contact the state's Regional Permit Specialist to complete a state project review sheet that identifies state or federal permits that also may be required.
3. Within 10 business days of the meeting, the Zoning Administrator will issue a written letter to the applicant that:
 - a. summarizes the content of the meeting, including issues to be addressed in the application,
 - b. classifies the subdivision as a major or minor subdivision, and
 - c. outlines the requirements for the submission of a complete application.

B. Application Requirements. Applications for preliminary and final subdivision review shall be submitted to the Zoning Administrator on forms provided by the town, as specified for each step of the subdivision review process.

1. Applications shall include required fees, information specified in application checklists and Zoning Administrator correspondence, and any written requests to waive or modify specific subdivision review standards under Section 8.1 of these regulations.
2. The Zoning Administrator shall refer complete applications to the DRB and, for preliminary subdivision review, copies of application information and public hearing notices to the following for review and comment:
 - a. Community officials, including but not necessarily limited to the Underhill Selectboard and the Underhill–Jericho Fire Department.
 - b. Underhill Conservation Commission.
 - c. The clerk of the adjoining municipality for a subdivision located within 500 feet of a municipal boundary.
 - d. The Vermont Agency of Transportation for a subdivision located on or accessed from a state highway.
 - e. The Vermont Agency of Transportation for any requested reductions in front setback requirements from state highway rights-of-way.
 - f. The State National Flood Insurance (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program, for subdivisions in the Flood Hazard Overlay District.
3. No municipal approval for a subdivision shall be issued until written comments have been received or thirty days have elapsed from the date of referral. The failure of the Zoning Administrator to notify the above listed parties shall not constitute grounds for appeal.
4. The Development Review Board at any time during the hearing process may require the applicant or other interested persons to submit additional information, or an independent technical review to be paid for by the applicant or other interested person, as needed to determine project conformance with the standards of these regulations.

Section 7.5 Preliminary Subdivision Review

- A. **Purpose.** The purpose of preliminary subdivision review is to review a draft subdivision plat and supporting documentation to determine preliminary conformance with the municipal plan, these regulations and other municipal ordinances in effect at the time of application; to identify particular issues or concerns associated with a proposed subdivision; to recommend modifications necessary to achieve conformance; and to identify any additional information required for submission for final subdivision review prior to the preparation of a final survey plat, engineering plans and legal documents for the subdivision and related site improvements.
- B. **Waiver.** The Development Review Board may waive preliminary subdivision review for minor subdivisions indicated as such and recommended under sketch plan review to expedite the hearing process for small subdivisions.

1 C. **Application.** The applicant shall submit one original and twelve 11" x 17" copies of the
2 draft subdivision plat, required fees, engineering drawings, a copy of the state project review
3 sheet, draft legal documents, and any other required information or supporting
4 documentation identified from application checklists, or as specified by the Zoning
5 Administrator.

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7 D. **Hearing.** Within 30 days of receipt of a complete preliminary application, the Zoning
8 Administrator, in consultation with the Chair of the DRB, shall schedule a public hearing at its
9 next available meeting, to be warned in accordance with the Act [§4426] and Section 10. The
10 Board may recess and continue the hearing to a date and time specified, to conduct site
11 visits or to allow for the submission of additional information from the applicant or other
12 interested persons. No additional information or comments will be taken following hearing
13 adjournment.

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15 E. **Decision.** The DRB shall issue written findings and a decision to approve, approve with
16 conditions, or deny the application for preliminary subdivision approval within 45 days of the
17 date of hearing adjournment, in accordance with the Act [§4464] and 10.7. Failure to act
18 within this 45 day period, as decided on appeal, shall be deemed approval on the 46th day.
19 The DRB may specify as conditions of preliminary subdivision approval:

- 20
21 1. Modifications or changes to the preliminary plat or supporting documentation
22 necessary to achieve compliance with the standards of these regulations.
- 23
24 2. Documentation to be submitted with the application for final subdivision review that all
25 other required municipal and state approvals have been obtained.
- 26
27 3. The submission of a master plan for major subdivisions that include phased or planned
28 unit development, and that a final plan and plat be filed for each phase of development.
- 29
30 4. Infrastructure improvements and associated easements or other dedications as required
31 to serve the proposed subdivision, or to mitigate off-site impacts resulting from the
32 proposed subdivision, to be installed or paid for by the applicant.
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34 5. The submission of additional supporting information including, but not limited to impact
35 studies, legal documents, development agreements, performance bonds or other
36 sureties, for consideration under final subdivision review.

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38 F. **Appeal.** The applicant or another interested person must file any request for
39 reconsideration by the DRB, or an appeal of the DRB decision to the Environmental Division
40 of Superior Court, within 30 days of the date of issuance in accordance with Section 10.5.

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42 G. **Effect.** Preliminary subdivision approval is intended to document application and
43 submission requirements for final subdivision review. It does not constitute approval of a
44 subdivision plat for recording in the land records of the town under Section F. A preliminary
45 approval shall remain in effect for one year from the date of issuance.

Section 7.6 Final Subdivision Review

A. **Purpose.** Final subdivision review and approval is required prior to recording a subdivision plat in the land records of the town under Section 7.7. The purpose of final subdivision review is to determine final project conformance with the municipal plan, these regulations, and other municipal ordinances in effect at the time of application. The application for final subdivision review shall be submitted within one year of the date of preliminary approval by the DRB, but not before the initial 30-day appeal period has expired. If an application has not been filed within one year, the applicant will be required to submit a new application for preliminary review under Section 7.5.

B. **Application.** The applicant shall submit required fees and one original and twelve copies of the information specified for final plans and plats, including 11"x17" copies of the final subdivision plat, engineering drawings and other supporting information and documentation as specified in application checklists and the conditions of preliminary subdivision approval.

C. **Hearing.** Within 30 days of receipt of a complete application, the Zoning Administrator, in consultation with the Chair of the Development Review Board, shall schedule a public hearing at its next available meeting to be warned in accordance with the Act [§4426] and Section 10.7. The DRB may recess and continue the hearing to a date and time specified to conduct site visits or to allow for the submission of additional information from the applicant or other interested persons. No additional information or comment will be taken following hearing adjournment.

D. **Decision.** The Development Review Board shall issue written findings and a decision to approve, approve with conditions, or deny the application for final subdivision approval within 45 days of the date of hearing adjournment, in accordance with the Act [§4464] and Section 10.7. Failure to act within this 45 day period, as decided on appeal, shall be deemed approval on the 46th day. The DRB may require as conditions of approval:

1. Measures necessary to mitigate adverse impacts of the subdivision under the standards of these regulations.
2. Subdivision phasing in accordance with an approved master plan, or as required to avoid overburdening the available capacity of existing or planned public facilities and infrastructure, in conformance with specific municipal plan policies and adopted capital or transportation improvement programs, and that additional subdivision plans and plats be filed for each phase of development.
3. Infrastructure improvements and associated easements or other dedications as required to support the proposed subdivision, or to mitigate off-site impacts resulting from the proposed subdivision, to be installed or paid for by the applicant.

4. A performance bond or comparable surety acceptable to the Underhill Selectboard, as specified under Section 10.7, that is sufficient to cover the cost and ensure the installation of required improvements in conformance with the conditions of subdivision approval, and their ongoing maintenance for two years following installation. The term of the bond or surety may be fixed by the DRB for a maximum of three years within which all improvements must be completed or, by mutual consent of the DRB and applicant, may be extended for an additional period not to exceed three years.
5. A certificate of compliance, to be issued by the Zoning Administrator under Section 10.4, based on the submission of as-built plans and certifications that improvements have been installed as approved by the Board. If a certificate of compliance is required, no zoning permit shall be issued for the development of a subdivided lot until the certificate has been issued and recorded in the land records of the town.
- E. **Appeal.** The applicant or another interested person must file a request for reconsideration by the DRB, or an appeal of a DRB decision to the Environmental Division of Superior Court, within 30 days of the date of issuance in accordance with Section 10.5.
- F. **Effect.** No subdivision plat shall be recorded in the land records of the town until final subdivision approval has been issued by the DRB and recorded in the land records of the town under Section 10.7. Final subdivision approval shall not be construed to constitute acceptance by the Town of Underhill of any street, easement, utility, park, recreation area, or other open space shown on the final plat. A formal resolution of the Underhill Selectboard is required for municipal acceptance of dedications by the applicant, in conformance with adopted town policies, ordinances and state law. Roads shown on an approved plat shall be considered private roads until such time as they may be formally accepted by the Underhill Selectboard.

Section 7.7 Plat Recording Requirements

- A. Within 180 days of the date of final subdivision approval by the Development Review Board, or by the courts on appeal, the applicant shall file a Mylar of the approved plat, as signed by the surveyor and the Chair or other appointed agent of the DRB, in the land records of the town in accordance with the Act [§4463(b)] and state plat filing requirements (27 V.S.A. Chapter 17). The applicant shall also submit one paper and digital copies of the approved subdivision plat and engineering plans, in a format specified by the town, to the Zoning Administrator.
- B. All subdivision and recording fees must be paid in full prior to recording a subdivision plat.
- C. The plat to be recorded shall:
- Measure a minimum of 18" x 24" or multiple thereof,
 - Have margins outside border lines of 1.5" on the left for binding, and 0.5" on all other sides.

c. Containin the approved road names and assigned 911 locator numbers for each parcel.

~~c.d.~~ Be certified and signed by the surveyor.

~~d.e.~~ Carry the following endorsement, to be signed by the Chair or other authorized representative of the Development Review Board:

Approved by decision of the Development Review Board, Town of Underhill, Vermont, issued on the ____ day of (month), (year), subject to all requirements and conditions of subdivision and plat approval. Signed this ____ day of (month), (year), by _____, Chairperson.

D. The subdivision plan (site plan) as approved by the DRB shall also be submitted on Mylar with the subdivision plat, for recording in the land records of the town.

E. An approved subdivision plat that is not recorded within the 180-day period shall expire, and reapplication shall be required. A recorded plat shall not expire, and may be modified only in conformance with Section 7.8.

Section 7.8 Revisions to an Approved Subdivision

A. Modifications or revisions to an approved subdivision plan, plat or the conditions of subdivision approval require a subdivision amendment approved by the Zoning Administrator or Development Review Board. Any modifications or revisions made to an approved plat without such approval shall be considered null and void, and subject to municipal enforcement as a violation under Section 10.6.

B. Administrative Amendments.

1. The following subdivision amendments are eligible for review and administrative approval by the Zoning Administrator, unless the Zoning Administrator determines that the requested amendment may not meet these criteria and should instead be referred to the DRB for review under Subsection C.

a. Boundary (lot line) adjustments under Section 7.2.D that do not result in the creation of new or nonconforming lots and do not materially or substantially alter the findings and conditions of subdivision approval and are recorded in the land records of the town, in accordance with Section 7.2.

b. The relocation, modification or expansion of building envelopes, as long as such relocations, modifications or expansions comply with the conditions of subdivision approval and other applicable requirements of these regulations.

- 1 c. The relocation, modification or expansion of building footprints, parking areas and
2 site improvements within approved building envelopes, as long as such relocations,
3 modifications or expansions comply with the conditions of subdivision approval and
4 other applicable requirements of these regulations.
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- 6 d. The relocation or modification of roadways, utilities and related improvements
7 within approved rights-of-way or utility corridors that otherwise comply with the
8 findings and conditions of subdivision approval and other applicable requirements
9 of these regulations.
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- 11 e. Approval of as-built plans that deviate from approved plans to the extent that such
12 deviations do not substantially or materially alter the findings and conditions of
13 subdivision approval.
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- 15 f. Modifications to approved landscaping and screening requirements to allow for the
16 substitution of materials, provided the substitutions meet the conditions of
17 subdivision approval.
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- 19 g. Modifications specifically authorized for administrative review and approval by the
20 DRB in it written decision and conditions of final subdivision approval.
21
- 22 2. The Zoning Administrator shall issue, post and record administrative subdivision
23 amendments in the same manner that zoning permits are issued under Section 10.3,
24 mail a copy of the amendment to all adjoining owners of record and interested parties to the
25 original subdivision proceedings, and forward a copy to the DRB. An administrative
26 subdivision amendment may be appealed within 15 days of the date of issuance to the
27 DRB under Section 10.5.
28
- 29 C. All other subdivision amendment applications shall be classified by the Zoning
30 Administrator under Section 7.2, and referred to the DRB for review.